



Comptroller General
of the United States
Washington, D.C. 20548

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Pollack 150402

Decision

Matter of: Allied Marine Services, Inc.

File: B-253493.3

Date: October 26, 1993

James H. Falk, Sr., Esq., Falk Law Firm, for the protester.
Claude P. Goddard, Jr., Esq., Jenner & Block, for Parmatic
Filter Corporation, an interested party.

Thomas A. Mason, Jr., Esq., and Michael J. Lederman, Esq.,
Department of Transportation, U.S. Coast Guard, for the
agency.

Catherine E. Pollack, Esq., and John M. Melody, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Agency reasonably found protester's bid nonresponsive where
the required descriptive literature contained two different
descriptions of the offered product's capacity, one of which
did not conform to the specifications, and no other
information in the bid explained or resolved the
inconsistency.

DECISION

Allied Marine Services, Inc. protests the rejection of its
bid as nonresponsive under invitation for bids (IFB)
No. DTCG85-93-B-625U06, issued by the Department of
Transportation, U.S. Coast Guard, for oily water separators
(OWS).

We deny the protest.

The IFB required bidders to furnish descriptive literature
with their bids establishing the offered product's compli-
ance with the IFB requirements, including a requirement that
the OWS be capable of processing and separating 50 gallons
of oily water per minute. The IFB warned that failure to so
establish compliance with the requirements would result in
rejection of the bid.

Four firms responded to the IFB by the February 12, 1993,
bid opening; Allied was the apparent low bidder. Allied's
bid subsequently was found nonresponsive for failure to meet
the 50-gallons-per-minute (GPM) requirement. The second-low

bid was found nonresponsive for failure to meet a requirement that all major components of the OWS be removable for service within a specified size envelope without moving the OWS from its foundation. Award was made to the third-low bidder, Parmatic Filter Corporation.


Upon learning of the award to Parmatic, Allied filed a protest with our Office challenging the agency's conclusion that its bid was nonresponsive. In the process of preparing its response to the protest, the Coast Guard determined that none of the bids, including Parmatics', met the size envelope requirement. The Coast Guard informed our Office that it would terminate Parmatics' contract for the convenience of the government, review the specifications, and resolicit for the requirement. Consequently, we dismissed Allied's protest as academic. Allied objects to the agency's action, alleging that it is entitled to the award because its low bid was responsive to all of the IFB requirements.

Where an IFB requires descriptive literature to establish the offered product's conformance with the specifications, a bid accompanied by descriptive literature that fails to clearly show such conformance--even if the offered product in fact possesses the required features--must be rejected as nonresponsive. Yale Materials Handling Corp., B-250208, Nov. 20, 1992, 92-2 CPD ¶ 360.

We agree with the Coast Guard that Allied's bid was nonresponsive to the 50-GPM requirement. Allied's bid included a "technical proposal" stating that the offered unit, a Hamworthy model HS-10, would process 50 GPM of oily water, and a Hamworthy commercial product brochure listing the HS-10's processing capacity as 44 GPM. Allied asserts that the commercial literature was a general brochure covering several Hamworthy OWS models, while its technical proposal was specific as to the characteristics of the "unique" OWS being offered for this procurement. Our review of Allied's bid package, however, does not support this position. The commercial brochure lists the processing capacity of the specific model Allied was offering, the HS-10, as 44 GPM. Although the technical proposal affirmatively states that the offered HS-10 will meet the 50-GPM requirement, it does not explain how the offered unit is different from the one described in the brochure with the 44-GPM capacity. The proposal does not in any way explain how the offered HS-10 is unique to this procurement, as Allied claims it is, or how the commercial HS-10 would be modified to exceed the 44 GPM specified in the brochure. In view of this inconsistency, we think the agency properly concluded that Allied's descriptive literature failed to show conformance with the IFB requirements, and that the bid

therefore was nonresponsive. See Yale Materials Handling Corp., supra; Maintenance and Repair, B-251223, Mar. 19, 1993, 93-1 CPD ¶ 247.

The protest is denied.


for James F. Hinchman
General Counsel